IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1804 OF 2006

Anil Rajaji Ghodake ...Petitioner

Vs.

Baburao Jyoti Sawant & Ors. ...Respondents

Shri K.R.Jagdale for the Petitioner.

Shri Rajesh More, A.P.P. for the State.

CORAM : A. S. OKA, J.
DATE : SEPTEMBER 19, 2006.

P.C.:

1. Heard the learned Advocate appearing for the Petitioner. The Petitioner is arraigned as accused in a complaint filed under section 138 of the Negotiable Instruments Act, 1881. The learned Trial Judge by order impugned dated 12th May, 2006 has permitted the first Respondent-complainant to lead secondary evidence of cheque, the memorandum issued by the bank and acknowledgments of the demand notice. The learned counsel for the Petitioner submitted that no case was made out under section 65(c) of the Indian Evidence Act, 1872 for permitting secondary evidence to be led.

2. I have considered the submissions. The learned Judge has noted that the entire file of the complaint alongwith original documents produced by the first

Respondent-complainant was lost in the Trial Court and therefore, under the order dated 14th July, 2000 passed by the District Court, the entire file was ordered to be reconstructed. The very fact that there is an order for the reconsideration of the record itself shows that the original documents have been lost. That is the reason why clause (c) of section 65 of the Indian Evidence Act has been invoked by the learned Trial judge. No case for interference is made out. Petition is rejected.

JUDGE